

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID NORTH,

Plaintiff

Case No. 2:19-cv-01428-RFB-VCF

ORDER

v.

BRIAN KOHEN et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Southern Detention Center (“NSDC”), has filed two applications to proceed *in forma pauperis* (ECF Nos. 1, 5), two motions to amend (ECF Nos. 3, 9), and a motion for status check (ECF No. 8).

With respect to the applications to proceed *in forma pauperis*, the Court denies the first application (ECF No. 1) as moot but grants the second application (ECF No. 5). The Court denies the motion for status check (ECF No. 8) as moot.

The Court denies the motions to amend (ECF Nos. 3, 9) without prejudice. The Court notes that the motions to amend seek to add additional claims to Plaintiff’s original complaint without Plaintiff filing a fully, complete amended complaint. The Court will not piecemeal Plaintiff’s complaint together. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court denies the motions to amend (ECF Nos. 3, 9) without prejudice and grants Plaintiff leave to file a fully complete second amended complaint.¹

Plaintiff is granted leave to file a second amended complaint. If Plaintiff chooses to file a second amended complaint he is advised that a second amended complaint supersedes (replaces) the original and amended complaints and, thus, the second

¹ The Court notes that Plaintiff has two ongoing lawsuits pursuing different claims and different factual allegations. See 2:19-cv-01427-JAD-NJK and 2:19-cv-01428-RFB-VCF. Plaintiff should be mindful of the lawsuit he is attempting to file an amended complaint in. The allegations in the second motion to amend (ECF No. 9) seem more in line with the lawsuit filed in 2:19-cv-01427-JAD-NJK.

1 amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard*
2 *Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party
3 was named in the original complaint is irrelevant; an amended pleading supersedes the
4 original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding
5 that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims
6 in a subsequent amended complaint to preserve them for appeal). Plaintiff’s second
7 amended complaint must contain all claims, defendants, and factual allegations that
8 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff should file the second
9 amended complaint on this Court’s approved prisoner civil rights form and it must be
10 entitled “Second Amended Complaint.”

11 II. CONCLUSION

12 For the foregoing reasons, it is ordered that the first application to proceed *in forma*
13 *pauperis* (ECF No. 1) is denied as moot.

14 It is further ordered that Plaintiff’s second application to proceed *in forma pauperis*
15 (ECF No. 5) without having to prepay the full filing fee is **granted**. Plaintiff shall **not** be
16 required to pay an initial installment fee. Nevertheless, the full filing fee shall still be due,
17 pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act. The
18 movant herein is permitted to maintain this action to conclusion without the necessity of
19 prepayment of fees or costs or the giving of security therefor. This order granting *in forma*
20 *pauperis* status shall not extend to the issuance and/or service of subpoenas at
21 government expense.

22 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison
23 Litigation Reform Act, the Nevada Southern Detention Center shall pay to the Clerk of the
24 United States District Court, District of Nevada, 20% of the preceding month's deposits to
25 the account of **David North, #54048048** (in months that the account exceeds \$10.00)
26 until the full \$350 filing fee has been paid for this action. The Clerk of the Court shall send
27 a copy of this order to the Finance Division of the Clerk’s Office. The Clerk shall send a
28 copy of this order to the attention of **Chief of Inmate Services for the Nevada Southern**

1 **Detention Center**, 2190 East Mesquite Avenue, Pahrump, NV 89060.

2 It is further ordered that, even if this action is dismissed, or is otherwise
3 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended
4 by the Prison Litigation Reform Act.

5 It is further ordered that the motions to amend (ECF Nos. 3, 9) are denied without
6 prejudice.

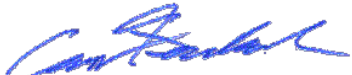
7 It is further ordered that the motion for status check (ECF No. 8) is denied as moot.

8 It is further ordered that, if Plaintiff chooses to file a second amended complaint,
9 Plaintiff will file the second amended complaint within 30 days from the date of entry of
10 this order.

11 It is further ordered that the Clerk of the Court will send to Plaintiff the approved
12 form for filing a § 1983 complaint, instructions for the same, and copies of his original
13 complaint (ECF No. 1-1) and motions to amend (ECF Nos. 3, 9). If Plaintiff chooses to
14 file a second amended complaint, he should use the approved form and he will write the
15 words "Second Amended" above the words "Civil Rights Complaint" in the caption.

16 It is further ordered that, if Plaintiff does not timely file a second amended
17 complaint, the Court will screen the original complaint (ECF No. 1-1) only and strike all
18 other motions to amend from the docket.

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20 DATED THIS 14th day of July 2020.

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United States Magistrate Judge